

CCRB INVESTIGATIVE RECOMMENDATION

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|--|--|-------------------------------------|---|------------------------------------|---------------------------------|
| Investigator: Simon Wang | Team: APU | CCRB Case #: 201708958 | <input type="checkbox"/> Force | <input type="checkbox"/> Discourt. | <input type="checkbox"/> U.S. |
| | | | <input checked="" type="checkbox"/> Abuse | <input type="checkbox"/> O.L. | <input type="checkbox"/> Injury |
| Incident Date(s) Tuesday, 10/10/2017 9:30 AM | Location of Incident: § 87(2)(b) § 87(2)(b) | Precinct: 44 | 18 Mo. SOL 4/10/2019 | EO SOL 4/10/2019 | |
| Date/Time CV Reported Fri, 10/27/2017 3:13 PM | CV Reported At: CCRB | How CV Reported: On-line website | Date/Time Received at CCRB Fri, 10/27/2017 3:13 PM | | |

| Complainant/Victim | Type | Home Address |
|--------------------|------------|--------------|
| § 87(2)(b) | § 87(2)(b) | § 87(2)(b) |

| Witness(es) | Home Address |
|-------------|--------------|
| § 87(2)(b) | § 87(2)(b) |

| Subject Officer(s) | Shield | TaxID | Command |
|---------------------------|--------|--------|---------|
| 1. POM Michael Fratangelo | 27111 | 948210 | WARRSEC |
| 2. SGT Damion Brown | 03928 | 945533 | WARRSEC |

| Witness Officer(s) | Shield No | Tax No | Cmd Name |
|---------------------------|-----------|--------|----------|
| 1. DT3 Brian Dobbins | 1847 | 948898 | WARRSEC |
| 2. DT3 Jack Polimeni | 00642 | 919573 | WARRSEC |
| 3. DT3 Billy Acosta | 00031 | 913910 | WARRSEC |
| 4. DT3 Christophe Heredia | 01339 | 938656 | WARRSEC |

| Officer(s) | Allegation | Investigator Recommendation |
|--------------------------|--|-----------------------------|
| A.POM Michael Fratangelo | Abuse: Police Officer Michael Fratangelo entered § 87(2)(b) in the Bronx. | § 87(2)(b) |
| B.SGT Damion Brown | Abuse: Sergeant Damion Brown entered § 87(2)(b) in the Bronx. | § 87(2)(b) |
| C.POM Michael Fratangelo | Abuse: Police Officer Michael Fratangelo searched § 87(2)(b) in the Bronx. | § 87(2)(b) |
| D.SGT Damion Brown | Abuse: Sergeant Damion Brown searched § 87(2)(b) in the Bronx. | § 87(2)(b) |

Case Summary

On October 27, 2017, § 87(2)(b) filed the following complaint with the CCRB. On October 10, 2017, at approximately 8:10 a.m., Sgt. Damion Brown, PO Michael Fratangelo and other officers of the Manhattan Warrant Section entered § 87(2)(b)'s apartment, § 87(2)(b) in the Bronx, (**Allegations A: Abuse of Authority - § 87(2)(g)** and **B: Abuse of Authority - § 87(2)(g)**) Sgt. Brown and PO Fratangelo then searched the apartment for § 87(2)(b)'s brother-in-law § 87(2)(b) (**Allegations C: Abuse of Authority - § 87(2)(g)** and **D: Abuse of Authority - § 87(2)(g)**) No one was in the apartment and the officers left.

There was no video of this incident.

Findings and Recommendations

Allegation (A) Abuse of Authority: Police Officer Michael Fratangelo entered § 87(2)(b) in the Bronx.

Allegation (B) Abuse of Authority: Sergeant Damion Brown entered § 87(2)(b) in the Bronx.

Allegation (C) Abuse of Authority: Police Officer Michael Fratangelo searched § 87(2)(b) in the Bronx.

Allegation (D) Abuse of Authority: Sergeant Damion Brown searched § 87(2)(b) in the Bronx

It is undisputed that Sgt. Brown, PO Fratangelo and other officers entered § 87(2)(b) and searched the apartment for § 87(2)(b). The allegations are pleaded against Sgt. Brown and PO Fratangelo because Sgt. Brown was the supervisor on the scene and PO Fratangelo was the investigating officer.

§ 87(2)(b) resides at § 87(2)(b) § 87(2)(b) in the Bronx with his wife and child. The apartment is on the § 87(2)(b) floor, with all windows facing § 87(2)(b). There are no fire escapes or balconies outside of § 87(2)(b)'s windows. § 87(2)(b) and his family left the apartment on October 10, 2017 at 7:45 a.m. At approximately 9:30 a.m. to 10:00 a.m., § 87(2)(b) called his building manager § 87(2)(b) to discuss renewing their lease and was informed that police officers had entered his apartment searching for his brother-in-law § 87(2)(b). When § 87(2)(b) returned home, he found that his door had been forced open, and that furniture such as the couch, baby crib and bed were moved. The closet doors were also open. A business card was left by PO Michael Fratangelo and § 87(2)(b) called him. PO Fratangelo informed § 87(2)(b) that § 87(2)(b) was a fugitive. § 87(2)(b) denied that § 87(2)(b) was ever a resident at § 87(2)(b). He also denied that § 87(2)(b) ever received mail at that address. § 87(2)(b) believed § 87(2)(b) was not residing in New York State. The last time § 87(2)(b) visited § 87(2)(b)'s home was 18 months prior. **(Board Review 1)**

PO Fratangelo was the lead investigator in apprehending § 87(2)(b) **(Board Review 2)** He stated that § 87(2)(b) was wanted on a bench warrant for not appearing in court for a domestic violence offense. Furthermore, there were two Investigation Cards issued for § 87(2)(b) with probable cause to arrest for criminal contempt and burglary, all against the same victim. PO Fratangelo did not

have a search warrant for § 87(2)(b) § 87(2)(b) Through the course of his investigation, PO Fratangelo spoke to the victim of § 87(2)(b) assaults who informed him that § 87(2)(b) had a sister and that if he were in New York City he likely would be residing with her. PO Fratangelo conducted computer system searches revealing § 87(2)(b) § 87(2)(b) to be the address of § 87(2)(b) sister. The address was not listed as § 87(2)(b) address. PO Fratangelo went to § 87(2)(b) § 87(2)(b) that morning with the intention of arresting § 87(2)(b) He was accompanied by Det. Brian Dobbins, Det. Jack Polimeni, Det. Billy Acosta and Det. Christopher Heredia. As PO Fratangelo approached the door, he heard the sound of a television on inside the apartment. He knocked on the door and announced himself as a police officer. He then heard footsteps inside the apartment going from the front to the rear. PO Fratangelo spoke to the superintendent – § 87(2)(b) and showed him § 87(2)(b) photograph from the bench warrant. § 87(2)(b) stated that he has seen § 87(2)(b) at the building before. § 87(2)(b) did not say when he had seen § 87(2)(b) PO Fratangelo knocked on the door repeatedly again while announcing himself as the police to no response. He heard the sound of a television, but nothing further. The sound of the footsteps and the lack of response to his knocking led PO Fratangelo to believe that § 87(2)(b) was inside the apartment. PO Fratangelo called his supervisor Sgt. Damion Brown to the scene. Sgt. Brown stated he was in his office when he received the call from PO Fratangelo requesting his presence at § 87(2)(b) (**Board Review 3**) Sgt. Brown went to § 87(2)(b) and was informed by PO Fratangelo that he had reason to believe § 87(2)(b) was inside § 87(2)(b) § 87(2)(b) Sgt. Brown confirmed that PO Fratangelo informed him of the sound he heard both on the phone and in-person when he arrived at the building. Sgt. Brown also spoke to § 87(2)(b) who also informed Sgt. Brown that he had seen § 87(2)(b) at the building. § 87(2)(b) likewise did not tell Sgt. Brown when he had seen § 87(2)(b) Sgt. Brown heard the television on as well as a shuffling noise coming from the apartment. Sgt. Brown stated that PO Fratangelo called him to request a supervisor because PO Fratangelo was not permitted to take any further action without a supervisor present. PO Fratangelo and Sgt. Brown both stated that Sgt. Brown determined that an entry should be made into the apartment to apprehend § 87(2)(b)

PO Fratangelo asked § 87(2)(b) to open the apartment for them. § 87(2)(b) attempted to remove the door with tools but was ultimately unsuccessful. The officers then forced the door open with their bodies. PO Fratangelo followed by all of the officers including Sgt. Brown then entered and searched the apartment. PO Fratangelo and Sgt. Brown stated that officers searched only in places in which an individual could hide, such as all of the rooms, inside the closets. They denied searching inside any containers or moving any furniture. They both stated that the television was on. Sgt. Brown stated that a window was open which he believed caused the “shuffling” noise he heard. No one was inside the apartment. PO Fratangelo left his business card and § 87(2)(b) secured the door.

The undersigned investigator spoke to § 87(2)(b) by phone (**Board Review 4**). § 87(2)(b) stated that he did not recall this incident. § 87(2)(b) then called his building manager who reminded him that § 87(2)(b)'s apartment was searched by police, which § 87(2)(b) then stated he recalled. However when asked what happened during the incident, § 87(2)(b) was confused by his recollection of whether he was present with the police officers and then stated that he did not recall.

Without a search warrant, an officer may only permissibly enter the dwelling of a third party in order to execute an arrest warrant either with the consent of an authorized party or under exigent circumstances. *People v. Rodriguez*, 851 N.Y.S.2d 342 (2008). **(Board Review 5)** Factors that determine whether exigent circumstances exist include a) the gravity or violent nature of the offense with which a suspect is charged, 2) whether the suspect is reasonably believed to be armed, 3) a clear showing of probable cause to believe the suspect committed the crime, 4) a strong reason to believe that a suspect is in the premises being entered, 5) a likelihood that the suspect will escape if not swiftly apprehended, and 6) the peaceful circumstances of the entry. *People v. McBride*, 14 N.Y.3d 440 (2010). **(Board Review 6)**

§ 87(2)(b), § 87(2)(g)

[REDACTED]

[REDACTED]

[REDACTED]

Civilian and Officer CCRB Histories

- This is the first and only complaint filed by § 87(2)(b) **(Board Review 7)**
- PO Fratangelo has had two other complaints involving two allegations made against him in his eight year tenure at the NYPD. Neither of those allegations has been substantiated and § 87(2)(g)
- Sgt. Brown has had seven other complaints involving 14 allegations made against him in his 10 year tenure at the NYPD.

- In case number 201608013, five allegations; entry and search, property damage, and detaining three individuals, were substantiated against Sgt. Brown. The board recommended Command Discipline B. The final disposition by the NYPD is unknown.
- In case numbers 201704075 and 201706078, allegations of entry and search of premises were pleaded against Sgt. Brown. Those cases remain under investigation.

- § 87(2)(b) declined to mediate this complaint.
- As of March 22, 2018, according to the Office of the NYC Comptroller, there has been no notice of claim filed regarding this incident (**Board Review 8**).
- According to the Office of Court Administration, § 87(2)(b) has no history of convictions in New York City (**Board Review 9**).

Investigator: _____ Inv. Simon Wang _____
Signature Print Title & Name Date

Reviewer: _____

Signature _____ Print Title & Name _____ Date _____

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